

Message Text

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ORIGIN L-02

INFO OCT-01 EA-06 ISO-00 DODE-00 PM-03 NSC-05 SP-02 SS-15

RSC-01 CIAE-00 INR-07 NSAE-00 MC-02 ACDA-05 AID-05

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DRAFTED BY L/EA:EGVERVILLE:JY

APPROVED BY EA:RHMILLER

DOD/ISA:HCHING

DOD/GC:HALMOND

PM/SAS:DJJAMES (INFO)

EA/LC:LMRIVES

----- 074449

R 072159Z FEB 75

FM SECSTATE WASHDC

TO AMEMBASSY VIENTIANE

INFO CINCPAC

S E C R E T STATE 028780

E.O. 11652: GDS

TAGS: MASS, LA

SUBJECT: MILITARY AID TO LAOS

CINCPAC FOR POLAD

REF: A. VIENTIANE 522; B. VIENTIANE 503; C VIENTIANE 705;
D. VIENTIANE 6351, 14 SEPT 73; E. VIENTIANE 0834

1. DEPARTMENT HAS REVIEWED REFTELS AND CONSIDERS THAT
WHILE LANGUAGE OF PARAS D1 AND D2 OF JCCIA DOCUMENT REF A
IS SOMEWHAT MORE HELPFUL THAN LANGUAGE OF ARTICLE 16 OF
PROTOCOL IN REF D, JCCIA DOCUMENT PERPETUATES SAME CON-
FUSIONS AND UNCERTAINTIES AS PROTOCOL. THE IMPROVEMENT
IN THE JCCIA DOCUMENT IS THE ELIMINATION OF PROTOCOL
ARTICLE 16B LANGUAGE QUALIFYING STRICT IMPLEMENTATION OF
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GENEVA ACCORDS BY PHRASE 'WHEN IT IS UNANIMOUSLY AGREED

BY BOTH SIDES.' ELIMINATION OF THIS LANGUAGE WOULD SUGGEST THAT BOTH SIDES HAVE ALREADY REACHED AGREEMENT THAT RELEVANT PROVISIONS OF GENEVA ACCORDS CONTINUE TO APPLY. THE PERPETUATED CONFUSION, OF COURSE, IS WHETHER APPLICATION OF GENEVA ACCORDS PROVISION PERMITTING MILITARY ASSISTANCE FOR PURPOSE OF SELF-DEFENSE HAS BEEN LIMITED TO ACCEPTANCES OF REPLACEMENTS FOR 'UNUSABLE' OR 'DAMAGED OR WORN OUT' ARMS AND WAR MATERIALS, AND THEN ONLY PURSUANT TO A 'JOINT DECISION.' QUESTION ALSO REMAINS WHAT KIND OF 'JOINT DECISION' OR 'AGREEMENT' IS REQUIRED BEFORE REPLACEMENT MAY OCCUR. ,

2. EMBASSY SUGGESTS PARA 5E REF B THAT ABOVE PROVISIONS OF JCCIA DOCUMENT AND PROTOCOL SHOULD BE GIVEN INTERPRETATION THAT, IF TWO PARTIES CANNOT AGREE ON REPLACEMENT, EACH SIDE WOULD BE FREE TO RECEIVE ARMS FOR ITS DEFENSE. THIS INTERPRETATION WOULD, OF COURSE, PERMIT US TO CONTINUE TO RESUPPLY FAR AS NECESSARY AND WOULD CERTAINLY BE ACCEPTABLE TO US IF IT WERE ACCEPTABLE TO THE LAO. WE ARE SOMEWHAT SURPRISED, HOWEVER, THAT THE THREE LAO OFFICERS CONCURRED IN THIS INTERPRETATION AND ARE SKEPTICAL OF ITS ACCEPTANCE AT HIGHEST LEVELS SINCE THERE IS NOTHING WE KNOW OF IN THE NEGOTIATING HISTORY OF THE PROTOCOL TO SUGGEST THAT THIS WAS WHAT THE PARTIES HAD IN MIND. DEPARTMENT REFERS, FOR EXAMPLE, TO MEMCON DATED 3/20/73 BETWEEN PHENG PHONGSAVAN, JOHNSON AND MYERS, IN WHICH PHENG SPOKE OF NECESSITY FOR UNANIMOUS AGREEMENT FOR REQUESTS FOR MILITARY ASSISTANCE.

3. REFERENCE IS ALSO MADE TO EXCHANGE OF CABLE TRAFFIC BETWEEN EMBASSY AND DEPARTMENT DURING NEGOTIATION OF PROTOCOL, WHICH RECORDS OUR EFFORTS TO SUGGEST PROTOCOL LANGUAGE THAT WOULD CLEARLY STATE RIGHT OF THE RLG AFTER FORMATION OF THE PGNU TO RECEIVE MILITARY ASSISTANCE FOR SELF-DEFENSE PURPOSES AS SPECIFIED IN THE GENEVA ACCORDS. AS YOU WILL RECALL, WE SOUGHT TO DO THIS BY PROPOSING THAT REQUIREMENT FOR UNANIMOUS CONSENT FOR REPLACEMENTS SHOULD BE LIMITED ONLY TO PERIOD BEFORE FORMATION OF PGNU, AFTER WHICH GOVERNMENT COULD RECEIVE ASSISTANCE AS PROVIDED IN GENEVA ACCORDS.

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4. IT WAS BECAUSE WE WERE UNSUCCESSFUL IN SECURING CLARIFYING LANGUAGE FOR PROTOCOL THAT DEPARTMENT SOUGHT TO OBTAIN NEW REQUEST FROM SOUVANNA FOR CONTINUATION OF MILITARY ASSISTANCE AFTER SIGNATURE OF PROTOCOL. PURPOSE OF THIS WAS TO ENABLE US, IF NECESSARY, TO TAKE POSITION THAT IF PRIME MINISTER HAS REQUESTED CONTINUATION OF ASSISTANCE WE CAN ONLY ASSUME INTERNAL LAO LEGAL

REQUIREMENTS HAVE BEEN MADE. WHILE LETTER FROM SOUVANNA CONTAINED VIENTIANE 7622 OF 11/8/73 IS NOT IDEAL IN ITS REFERENCE TO AGREEMENT AND PROTOCOL, IT NEVERTHELESS COULD BE USED IF NECESSARY IN EXPLANATION OF OUR ACTIONS UNDER OBVIOUSLY AMBIGUOUS LAO AGREEMENTS. WE BELIEVE IT WOULD BE PREFERABLE TO RELY ON THIS LINE OF ARGUMENT RATHER THAN OUR OWN NECESSARILY UNAUTHORITATIVE INTERPRETATIONS.

5. THUS WE BELIEVE THAT POSITION YOU TOOK IN REPLYING TO LPF INQUIRIES ABOUT OUR MILITARY AID REPORTED REF C WAS CORRECT ONE. AS LONG AS SOUVANNA REMAINS PRIMIN, HIS LETTER PROVIDES BASIS FOR OUR CONTINUED AID, UNLESS OF COURSE HE RETRACTS IT. FUTURE PROBLEM MAY ARISE, HOWEVER, WHEN SOUVANNA DEPARTS SCENE FOR ANY REASON. LPF, WHO MAY OR MAY NOT BE AWARE OF SOUVANNA LETTER, COULD WELL CLAIM THAT IT NO LONGER HAD ANY VALIDITY. THIS WOULD MAKE IT MORE DIFFICULT FOR VIENTIANE SIDE AND OURSELVES TO REBUT ANY LPF ARGUMENT THAT TWO PARTIES HAD NOT REACHED AGREEMENT AS REQUIRED BY PROTOCOL IN ORDER FOR PGNU TO ACCEPT REPLACEMENTS OR ARMS FOR SELF-DEFENSE AS PERMITTED BY GENEVA ACCORDS.

6. DEPARTMENT WOULD, OF COURSE, APPRECIATE ANY FURTHER COMMENTS EMBASSY MAY HAVE REGARDING POSSIBILITY THAT INTERPRETATION SUGGESTED PARA 5E REF B WOULD NOW BE ACCEPTABLE TO PGNU AT HIGHEST LEVEL. THIS WOULD, OF COURSE, BE USEFUL. WOULD ALSO APPRECIATE EMBASSY'S ASSESSMENT AT THIS POINT OF HOW SOUVANNA WOULD EXPECT OR WISH US TO HANDLE INQUIRIES AS TO LEGAL BASIS OF OUR CONTINUED MILITARY ASSISTANCE SHOULD WE BE QUESTIONED ON THIS SUBJECT. KISSINGER

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Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
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To: VIENTIANE
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